

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
STEPHEN A. MILLER,	:
	:
Plaintiff,	:
	:
v.	:
	:
PACIFIC INVESTMENT MANAGEMENT	:
COMPANY LLC, et al.,	:
	:
Defendants.	:
-----X	

Case No. 12-CV-4122 (LTS) (JCF)
ECF CASE
ELECTRONICALLY FILED

NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that, upon the Amended Complaint and the accompanying Memorandum of Law in support of this Motion to Dismiss, Defendant Pacific Investment Management Company LLC (“PIMCO”), by and through its undersigned counsel, will move this Court, before the Honorable Laura Taylor Swain, United States District Judge, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, Courtroom 11C, for an order dismissing the Amended Complaint with prejudice as to PIMCO pursuant to Federal Rules of Civil Procedure 8(a), 9(b), 12(b)(1) and 12(b)(6), and 28 U.S.C.

§§ 1915(e)(2)(B)(i) and (ii), and for such other and further relief as the Court may deem just and proper.

Rule (A)(2)(b) Certification

Pursuant to Judge Swain’s Individual Practice Rule (A)(2)(b), PIMCO, through its counsel, certifies that it has used its best efforts to resolve informally the matters raised in this Motion. PIMCO sent a letter to the Plaintiff on December 19, 2012, and the parties spoke by phone on December 20, 2012. For the Court’s convenience, PIMCO has submitted copies of the

parties' respective letters as attachments to the Declaration of Jason C. Cyrulnik. Plaintiff has already amended the Complaint. In response to PIMCO's efforts to informally resolve this matter, Plaintiff indicated that he would not voluntarily dismiss his Amended Complaint and that PIMCO should file its motion.

Dated: December 28, 2012
Armonk, New York

Respectfully Submitted,

BOIES, SCHILLER & FLEXNER LLP

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